

**BOARD OF ENVIRONMENTAL PROTECTION  
Meeting Minutes**

May 21, 2009

A meeting of the Board of Environmental Protection was held on Thursday, May 21, 2009 at the Holiday Inn / Ground Round, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

**Board:** Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Nancy Ziegler.

Absent: Don Guimond

Vacancy: There is one vacancy on the Board.

**Staff:** Mike Mullen, Bureau of Land and Water Quality  
Stephen McLaughlin, Bureau of Land and Water Quality  
Andrea Lani, Bureau of Air Quality  
Jeff Crawford, Bureau of Air Quality

**Others:** David P. Littell, Commissioner  
Pete LaFond, Assistant Attorney General  
Cindy Bertocci, BEP Executive Analyst  
Terry Hanson, BEP Administrative Assistant

***(Meeting adjourned at approximately 11:30 p.m.)***

**Draft Pending Board Approval**

**PUBLIC HEARINGS:** The Board convened its meeting with two public hearings to receive comments on proposed rule amendments.

1. Public Hearing 9:00 a.m., Chapter 305 Permit By Rule, Section 16 ~ Activities in Coastal Sand Dunes / amendments [Major Substantive]
2. Public Hearing 9:30 a.m., Chapter 305 Permit By Rule / amendments [Routine Technical]

Immediately following the close of the public hearings, the Board considered its regular agenda.

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**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:**

Greenhouse Gas Agreement: The Obama Administration and California officials recently announced a settlement and modification of the automobile greenhouse gas standards. The new standards are intended to be implemented nationally by 2012 and 2016. While the details of the agreement have not been made available, it is anticipated that a reduction of approximately 900 million tons of CO<sub>2</sub> equivalents will be realized. The Department anticipates that Maine's regulations will need to be updated to reflect the resolution reached.

Transmission Projects: Board members received a copy of a letter dated May 11, 2009 signed by 11 governors communicating support for renewable energy initiatives and concerns with some legislative proposals that may impact current regional renewable energy goals. Additionally, Board members received a news article, "Inside FERC", which highlighted issues concerning regional initiatives and federal preemption related to state environmental regulations and energy authority.

Climate Change: A draft letter to be endorsed by 30 governors is expected to be finalized today communicating general principles for a clean energy strategy guided by science to avoid global warming. Commissioner Littell offered to provide Board members with a copy of the finalized letter.

Federal Legislation: The details of proposed amendments to the climate change bill (Waxman Markey) were released on Friday. The Department is reviewing the 900 page document to identify potential impacts to regulated entities with particular attention to biomass issues which are important to Maine.

Maine Legislature: Work sessions are being held this afternoon on the Senate President's and House Speaker's bill on energy efficiency requirements within the Site Law. A work session on the bill to apply license transfer restrictions to the MERC facility will be held today by the Joint Standing Committee on Natural Resources.

Questions:

Board member Andy Nixon asked about Congressional climate change proposals that would essentially give away CO<sub>2</sub> allowances.

Commissioner Littell explained that the revision of the bill was made by the House Energy and Commerce Committee and was not supported by the Obama Administration. Recent newspaper reports of an 85% give away of allowances are not accurate because they do not tie each allocation to purpose and interest. The proposed allocation of allowances is very complicated. There is information which indicates that certain percentages will be allocated to a variety of areas (e.g. 15% to electrical utilities, 5% to worker training 1% habitat protection adaptation, 1% public health adaptation initiatives, 5% for price impacts for heating oil in north east, etc). Commissioner Littell offered to provide Board members with a copy of the May 18, 2009 allowance allocation document.

Board member Matt Scott asked about the status of LD 1282, An Act to Protect and Enhance Maine Marine Fisheries.

The Board's Executive Analyst, Cindy Bertocci explained that the bill was voted out of committee; ought not to pass.

Board member Richard Gould asked for an update on LD 351, An Act To Regulate Agricultural Composting Operations.

The bill was voted out of committee ought not to pass yesterday with a vote of 18 -17.

Board member M. Wing Goodale asked about the recent FERC issuance of the Downeast LNG draft Environmental Impact Statement (EIS) and its affect on the Board's review process.

It was explained that the draft EIS has been released by FERC and FERC is accepting public comments. It was further noted that it is likely the EIS will be entered into evidence during the state's review of the application. The Board's Executive Analyst noted that the company has indicated it intends to file state applications in the fall. The permitting timeframe for the Board begins upon the application being accepted for processing.

Board member Nancy Ziegler asked about the status of the Calais LNG project.

Commissioner Littell advised that the Department anticipates the filing of an application this summer (perhaps July).

**B. COMMENTS FROM THE BEP CHAIR:**

Chair Lessard announced that Board member Elizabeth Ehrenfeld was instrumental in securing a National Institute Health Grant for a state consortium which includes the bio-technology program at Southern Maine Community College. There is an award ceremony at the State House, Hall of Flags this afternoon.

Chair Lessard noted that Board member Don Guimond was absent because he is in Washington, D.C. being honored as the recipient of the U.S. Small Business

Administration's Phoenix Award in recognition of his efforts supporting his community during the spring flood of 2008.

Lastly, Chair Lessard mentioned that the Joint Standing Committee on Natural Resources will be considering two Board nominations on Tuesday, May 26<sup>th</sup>, the reappointment of Board member Elizabeth Ehrenfeld and the new nomination of Mr. Franklin Woodard of Falmouth (former member Ernest Hilton's seat).

**C. EXECUTIVE ANALYST COMMENTS:** None

**D. BOARD CALENDAR:** Reviewed.

**E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING:** None

**F. EXECUTIVE SESSION:** None

## **II CONSENT AGENDA ITEMS:**

The Board voted (8-0-0-1) on a motion to approve consent agenda items 1, 2, 3, and 4 as presented.

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Don Guimond was absent. There is one vacancy.*

1. WILLIAM K. SANBORN, SUSAN A. SANBORN, DAVID A. SANBORN, SCOTT W. SANBORN, and ELIZABETH SPAZEK, f/k/a ELIZABETH L. SANBORN, Windham -- Administrative Consent Agreement (OC)
2. K & M MOTORS, INC., Millinocket -- Administrative Consent Agreement (BAQ)
3. G.R. LOGGING, INC., G.R. TIMBER HOLDINGS, LLC and GABRIEL RIOUX, Easton, Limestone and Washburn -- Administrative Consent Agreement (BRWM)
4. ROBERT GLADU d/b/a PEPPERELL ASSOCIATES and RALPH SAWYER d/b/a PEPPERELL ASSOCIATES Lewiston -- Administrative Consent Agreement (BRWM)

## **III. Regular Agenda**

1. CHAPTER 595, STATE REVOLVING FUND / AMENDMENTS (adoption\*)

Staff: Steve McLaughlin, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 595, State Revolving Fund (SRF). The SRF provides funding for the planning, design, and/or construction of municipal wastewater treatment works and other water pollution control facilities or practices. Amendments to this rule delete federal references that no longer apply, and allow the State Revolving Fund to make loans at or below 0% interest and provide for principal forgiveness to provide for acceptance of federal stimulus funds. The vote was taken pursuant to 38 M.R.S Section 341-D(1-B) and 30-A M.R.S. Section 5959.

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Don Guimond was absent. There is one vacancy.*

2. CHAPTER 125, PERCHLOROETHYLENE DRY CLEANER REGULATION / AMENDMENTS (adoption)

Staff: Andrea Lani, Bureau of Air Quality

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 125, Perchloroethylene Dry Cleaner Regulations. The proposed amendments incorporate weekly monitoring requirements, establish a timeframe for repair of leaking equipment, mandate the removal (by 2020) of units that are co-located in residential buildings and a prohibition on co-location in a building with a day care center, health care facility, prison, school, senior/youth center. The vote was taken pursuant to 38 M.R.S. Sections 341-D(1-B) and 585-A.

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Don Guimond was absent. There is one vacancy.*

3. CHAPTER 159, CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM ADHESIVES AND SEALANTS / AMENDMENTS (adoption)

Staff: Andrea Lani, Bureau of Air Quality

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 159, Control of Volatile Organic Compounds from Adhesives and Sealants. The proposed amendments are based on a model rule developed by the Ozone Transport Commission and include, in part, limitations on the VOC content of aerosol adhesives and surface preparation solvents, prohibition on sale of adhesives and sealants that exceed the specified VOC limits, provisions for alternative add-on control systems, and requirements for cleanup of solvents, labeling and storage. The motion included accepting the following amendments:

Section 2. Requirements A

...any adhesive, sealant, adhesive primer or sealant primer ~~any adhesive, sealant, adhesive, primer or sealant primer~~ manufactured on or after January 1, 2011, in ...

Section 2. Requirements E.

...comply with the VOC limits in Table **1** of this...

Section 2. G. Table 1, note at end

\*....exempt compounds as specified in Section ~~5~~ of this rule.

The vote was taken pursuant to 38 M.R.S. Sections 341-D(1-B) and 585-A.

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Don Guimond was absent. There is one vacancy.*

*Next Regular Meeting – Thursday, June 18, 2008 – Holiday Inn/Ground Round*